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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,404	02/08/2002	Stephanie Dubsky	12227/2	1650

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NEW YORK, NY 10004

EXAMINER
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MEREK, JOSEPH C

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 01/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/071,404

Applicant(s)

DUBSKY, STEPHANIE

Examiner

Joseph C. Merek

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5,7,8,10-14 and 16-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5,7,8,10-14 and 16-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02/08/02 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### ***Drawings***

The proposed drawing Fig. 2 A is not approved since it brings new matter into the disclosure. There is not support for the showing of the loop with the ends as shown.

The disclosure did allow for the possibility that the cord could be attached to the container with glue a staple or a knot but did not disclose how the knot secured the cord to the inner surface of the container. The drawing represents new matter. Since the new drawing has not been approved the drawing objection has been maintained.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "the loop comprises a cord with a first cord end and a second cord end, the first cord end attached to the inner surface of the body at a first one of the least two separate points and the second cord end attached to the inner surface of the body at a second of the least two separate points" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

The disclosure is objected to because of the following informalities: The amendment to the specification should be deleted since Fig. 2a was not approved and

the entire paragraph references Fig. 2a. The amendment to the specification would be repetitive with respect to Fig. 2.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 4 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Regarding claim 4, it has not been adequately disclosed how the loop will function when ends are attached as claimed to the inner surface of the body. The claim requires that the loop have a first cord end attached at a first of the at least two separate points and a second cord end secured to second of the at least two separate points. Moreover, this structure would appear to not define a loop since the ends of the cord are not attached to each other and therefore do not make a loop.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant

regards as the invention. It has not been adequately disclosed how the loop will function when ends are attached as claimed to the inner surface of the body. The claim requires that the loop have a first cord end attached at a first of the at least two separate points and a second cord end secured to second of the at least two separate points. Moreover, this structure would appear to not define a loop since the ends of the cord are not attached to each other and therefore do not make a loop. It is not clear what applicant is claiming. The claim should state "the at least" instead of "the least". It is not clear what is being claimed.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1- are rejected under 35 U.S.C. 102(b) as being anticipated by Stucker (US 2,691,998). Regarding claim 1, see Figs. 11, 2, and 5, where the loop 29 is secured to the inner surface of the bag by the loop holders 26. As seen in Fig. 5, the loop holders are secured to the inner surface of the bag 10 by stitching. The loop does not pass through the bag wall or the closed end. The loop is capable of being used as one handle or two. The one handle being longer than the two handles. Regarding claim 2, the one handle will be substantially greater than the second. Regarding claim 3, coupling buttons 33 hold the ends of the loop together. Regarding claim 4, as it is

best understood, the loop satisfies the claim limitation since the loop passes through the loop holders. Regarding claim 5, there is no structure required by the limitation that is not in the reference. The loop is capable of being wrapped around the outer surface of the bag. Regarding claims 7 and 8, the attachments for the loop are 26 as seen in Fig. 5. They are attached to the inner surface of the container. Regarding claim 10, the loop can be separated from the body by removing the coupling buttons. Regarding claim 13, the loop closes the open top as seen in Fig. 2.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4, 5, 7, 8, 10, 11, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deubener (US 1,305,198) in view of Vazquez (US 2001/0031104). Regarding claim 1, Deubener teaches the claimed structure but the loop passes through the bag walls. Vazquez, as seen on page 3, in paragraph 60 and in Figs. 38-43, teaches a similar handle where the handle passes through loop holders disposed entirely on the interior of the bag so the loop does not pass through the bag wall. It would have been obvious to employ the interior loop holders of Vazquez in the bag of Deubener to provide a neater appearance to the bag as taught by Vazquez. One end of the loop in the modified bag of Deubener can be pulled so that it is longer

than the other loop. Regarding claim 2, when the first end loop is extended so that the other end of the loop is tight to the bag then the one loop is substantially greater than the other. Regarding claim 4, as it is best understood, the cord passes through the inner surface of the body at four different locations and satisfies the claim limitation. This is considered as secured to the inner surface of the body. Regarding claim 5, the loop is configured to form a decoration wrapped around the outer surface of the body. With one end of the loop extended, the extended end is capable of being wrapped about the outer surface of the body. Regarding claim 7 and 8, there are multiple loop holders on the inner surface of the modified bag of Deubener. Regarding claim 10, the loop is configured to be detached from the body. The loop could be removed by cutting the loop. Regarding claim 11, the limitation to the single sheet of material does not require any structure that is not in the modified container of Deubener. Regarding claim 13, see Fig. 4 where the top is capable of being closed. The limitation does not require any structure that is not in the combination of references.

Claims 1, 2, 4, 5, 7, 8, 11, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Musick (US 1,986,743) in view of Vazquez (US 2001/0031104). Regarding claim 1, Musick teaches the claimed invention but teaches the loop holders on the outside of the container instead of the inside of the container. Vazquez teaches a similar container where the loop holders are all located on inside of the container. It would have been obvious to locate the loop holders of Musick on the interior of the container to provide a neater appearance to the container or bag as taught by Vazquez. See Musick, where the loop 20 can form one loop by pulling up on only one of the

handles. The one loop will be longer than two. Regarding claim 2, the one first size is substantially greater than the second size. Regarding claim 4, as it is best understood, the modified container of Musick meets the intended claim language. Regarding claim 5, the loop is capable of being wrapped around the outer surface of the body.

Regarding claims 7 and 8, the two points are at the multiple loop holders of Musick. The loop holders will secure the loop to the inner surface of the container. Regarding claim 11, there is no structure required by the single sheet of material that is not in the reference. Moreover, it would have been obvious to cut all the pieces of Musick from a single sheet of material to reduce waste. Regarding claim 13, the top is closeable as seen in Figs. 1-3, by the flap 3.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Deubener in view of Vazquez as applied to claim 1 above and further in view of Katz (US 1,996,619). Regarding claim 3, the modified bag of Deubener does not teach the cord end secured to together. Katz teaches a similar bag where the cord ends are secured together by a knot as seen in Fig. 1. It would have been obvious to employ the knot of Katz in the loop of Deubener to allow the loops to be threaded through the holes in the bag.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Musick in view of Vazquez as applied to claim 1 above and further in view of Katz (US 1,996,619). Regarding claim 3, the modified bag of Musick does not teach the cord end secured to together. Katz teaches a similar bag where the cord ends are secured together by a



knot as seen in Fig. 1. It would have been obvious to employ the knot of Katz in the loop of Musick to allow the loops to be threaded through the holes in the bag.

Claims 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Deubener in view of Vazquez as applied to claim 1 and further in view of VanErdern et al (US 4,786,190). Regarding claim 12, the modified bag of Deubener does not teach the closed end being welded. VanErdern et al, as seen in 1 and 3, teaches that a folded closed end can be replaced with a welded closed end. It would have been obvious to weld the closed end of Deubener as taught by VanErdern et al to provide an alternative way to make the bag or close the end of the bag.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Deubener in view of Vazquez as applied to claim 1 above and further in view of Hurst (US 4,290,763). Regarding claim 14, the modified bag of Deubener does not teach the body is made from a laminate with a metal layer. Hurst teaches a laminated structure with a metal layer that can be used for bags. It would have been obvious to employ the laminated material of Hurst in the bag of Deubener to provide a stronger bag or to provide a water resistant material for the bag.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Deubener (US 1,305,198) in view of Vazquez (US 2001/0031104) and further in view of Mencacci (US 2003/0091245). Regarding claim 16, Deubener teaches the claimed structure but the loop passes through the bag walls. Vazquez, as seen on page 3, in paragraph 60 and in Figs. 38-43, teaches a similar handle where the handle passes through loop holders disposed entirely on the interior of the bag so the loop does not

pass through the bag wall. It would have been obvious to employ the interior loop holders of Vazquez in the bag of Deubener to provide a neater appearance to the bag as taught by Vazquez. The modified bag of Deubener does not teach the pack of labels attached top the loop. Mencacci as seen in Figs. 2 and 8, teaches a pack of labels attached to the loop. It would have been obvious to employ the pack of labels of Mencacci in the modified bag of Deubener to provide for a gift bag as taught by Mencacci.

Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deubener in view of Vazquez and Mencacci as applied to claim 16 above, and further in view of Cheng (US, 4,867,577). Regarding claims 17 and 18, the modified bag of Deubener does not teach the adhesive label fixed to the exterior of the bag or the adhesive label closing the bag. Cheng, as seen in Figs. 5-8, teaches a decorative closure for a gift bag that is adhesively fixed to the exterior of the bag and closes the bag. It would have been obvious to employ the adhesive closure of Cheng in the modified bag of Deubener to keep retain the contents in the bag and to decorate the bag as taught by Cheng. The limitation that the label comes from the pack does not require any structure that is not in the combination of references.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-5, 7, 8, 10-14, and 16-18 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP, § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Steen and Salomon et al are both cited for teaching bags with handle attachments on the interior of the bag.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph C. Merek whose telephone number is (703) 305-0644. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young can be reached on (703) 308-2572. The fax phone numbers for

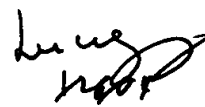
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the organization where this application or proceeding is assigned are (703) 305-3579 for regular communications and (703) 308-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-

1148.

JCM  
January 26, 2004

  
LEE YOUNG  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700